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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

GERALD ARMSTRONG,

Plaintiff,

vs.

CV-N-97-670-ECR

MOTION FOR SUBSTITUTED
SERVICE OF PROCESS ON
DEFENDANTS CSI et al:
TO PENETRATE THE CSI's
ARTFUL SERVICE BARRIERS

DAVID MISCAVIGE and CATHY
NORMAN, individuals; CHURCH
OF SCIENTOLOGY INTERNATIONAL,
a California corporation; the
RELIGIOUS TECHNOLOGY CENTER,
a California corporation; the
SEA ORGANIZATION, a California
based unincorporated entity ;
and the CHURCH OF SCIENTOLOGY
OF TEXAS, a Texas corporation;

[Fed.R.Civ.P. Rule 4(h)(1)
incorporating Rule 4(e)(1);
Cal CCP §§ 413.10-417.40, and
Cal Corporation Code § 1702;
Tex Bus Corp Act 2.11(a)(b)]

Defendants.

Plaintiff Gerald Armstrong by and through his undersigned
attorney makes application and moves this court for an Order:

(a) authorizing plaintiff to effect substitution of the
Secretary of State of California as the agent for service of
process upon defendants Church of Scientology International, a
California corporation; Religious Technology Center, a California

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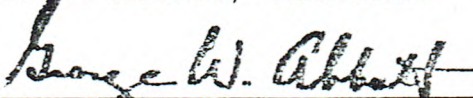
corporation; Sea Organization, a California based entity, and upon defendant David Miscavige, individually, and as President of the Church of Scientology International and as Chairman of the Board of Religious Technology Center; and

(b) authorizing plaintiff to effect substitution of the Secretary of State of Texas as the agent for service of process upon defendants Church of Scientology of Texas, a Texas corporation; and upon Cathy Norman, individually, and in her capacity as an employee/executive of and resident agent for the Church of Scientology of Texas, and on information and belief as an employee of the Church of Scientology International.

This application/motion is made upon all of the pleadings and papers on file in these proceedings, is made pursuant to Fed.R.Civ. P. Rule 4(h)(1) incorporating Rule 4(e)(1), is made pursuant to Cal CCP §§ 413.10-417.40 and Cal Corporation Code § 1702, is made pursuant to Tex Bus Corporation Act §§ 2.11(a)-2:11(b), and is made pursuant to the Plaintiff's Memorandum of Points and Authorities set out following. The latter includes therewith the incorporated affidavit/declarations of diligent efforts at service of process provided in their respective venues by registered Texas process server Oscar Glass and by registered California process server Jack Tinoco.

Dated the 9th day of March , 1998.

GEORGE W. ABBOTT, CHARTERED

By 
George W. Abbott, Esq.
Attorney for plaintiff.

PLAINTIFF'S MEMORANDUM OF POINTS
AND AUTHORITIES IN SUPPORT OF AN
APPLICATION FOR SUBSTITUTED SERVICE

(i) Introduction: failure to effect service acceptance
on behalf of all California-Nevada defendants

1. By pre-complaint letter of May 8, 1997 "Re: Gerry Armstrong" from San Francisco attorney Andrew H. Wilson of the firm of Wilson Campilongo LLP addressed to the undersigned George Abbott, Esq., attorney in Nevada for Gerald Armstrong, Mr. Wilson, inter alia, set out this opening paragraph:

* * * * *

Dear Mr. Abbott:

I write in reply to your letter of May 5, 1997 which, as was your last letter, referred to me for reply. As I am sure you are aware, I have represented the Church of Scientology ("CSI") since early 1992 in its efforts to enforce the Settlement Agreement of December 6, 1986.

* * * * *

2. After further Wilson-to-Armstrong/Abbott communications, plaintiff Armstrong on November 24, 1997 caused to be filed and issued the Summons and Complaint for Libel and Defamation, and for Other Relief in the instant case, initially bearing number CV-N-97-670-HDM (RAM) [reassigned and styled "Gerald Armstrong, Plaintiff, vs. David Miscavige and Cathy Norman, individuals; Church of Scientology International, a California corporation; the Religious Technology Center, a California corporation; the Sea Organization, a California based unincorporated entity; and the Church of Scientology of Texas, a Texas corporation; Defendants."

3. A post-complaint letter dated December 17, 1997 from

Armstrong attorney Abbott to Church of Scientology attorney Wilson, replying to a Wilson-to-Abbott letter of December 12 included, inter alia, these Abbott concluding paragraphs:

* * * * *

3. You write that you offer me and my client "the opportunity to voluntarily dismiss the action without fear of facing a motion. . ."

I understand by this, and by the rest of your letter, that you have accepted service of the summons and complaint on behalf of the six named defendants: David Miscavige, RTC, CSI, Sea Org, Scientology Texas and Cathy Norman. Is this correct?

Assuming this understanding is correct, I am enclosing herewith a copy of the Minutes of the Court from December 2, 1997 ordering this action reassigned to the Honorable Edward C. Reed, Jr., and changing the case number to CV-N-97-670-ECR (RAM).

Sincerely,

/s/ George W. Abbott

* * * * *

4. Attorney Wilson, in a letter to attorney Abbott dated January 6, 1998 and received in the Abbott law office during the afternoon of January 8 makes, inter alia, this response:

* * * * *

Dear Mr. Abbott:

I write in response to your letter of December 17, apparently received in this office on December 24. I was out of the office during the holidays and unable to respond until today.

Your assumption that I accepted service on behalf of any party to the referenced action is incorrect, unfounded and borders on the absurd. I thought it obvious that my letter was an offer of the opportunity to abandon this litigation before service of process was accomplished, in an effort to avoid the considerable expense that will accrue in defense of this unfounded action, an expense

which you and your client will ultimately bear.

* * * * *

ii. Futile efforts of the registered process server, the four California defendants

5. In December, 1997 and January, 1998 at the contracted request of Armstrong's counsel, the RONSIN Attorney Service, Inc. of Alhambra, California by one of its registered California process servers, Jack Tinoco, attempted — unsuccessfully after "due search, careful inquiry, and diligent attempts" in each instance — to serve summons and complaint upon defendant DAVID MISCAVIGE, as evidenced by Arm Process Exhibit 1, annexed; upon defendant CHURCH OF SCIENTOLOGY INTERNATIONAL, as evidenced by Arm Process Exhibit 2, annexed; upon defendant SEA ORGANIZATION, as evidenced by Arm Process Exhibit 3, annexed; and upon defendant RELIGIOUS TECHNOLOGY CENTER, as evidenced by Arm Process Exhibit 4, annexed.

iii. Failed efforts of the registered process server: the two Texas Armstrong defendants

6. "Throughout the month of December 1997" the ASSURED CIVIL PROCESS AGENCY of Austin, Texas assisted the plaintiff in the person of Oscar Glass, one of its registered Texas process servers acting on behalf of plaintiff Armstrong. In the Affidavit of Diligence verified by Agent Glass on January 9, 1998, Mr. Glass swears that he "attempted numerous times throughout the month of December 1997" to effect service upon defendant CHURCH OF SCIENTOLOGY OF TEXAS by delivering to its registered agent defendant CATHY NORMAN, in person, the Armstrong summons and

complaint. As recounted by Mr. Glass in Arm Process Exhibit 5, annexed:

* * * * *

Access to the registered agent was systematically denied, or she reportedly was not in the office at the registered address located at 2200 Guadalupe, Austin, Texas. I recommended service upon this Texas Corporation by delivering to the Secretary of State, pursuant to Texas Business Corporations Act Sec.2.11b.

* * * * *

As will presently be shown, plaintiff intends to seek substituted service through those very California and Texas state officials.

iv. Certified mail to Scientology key addresses in California and Texas: unclaimed, refused

7. One further measure of the CHURCH OF SCIENTOLOGY INTERNATIONAL commitment to serious attention to our federal court system grew, unexpectedly, out of routine actions undertaken by the Abbott law office. Counsel for plaintiff Armstrong was forewarned from legal sources across the nation that "mighty" Scientology would "go to any lengths to avoid meeting its adversaries face to face, directly, in court actions" brought against this self-proclaimed "benevolent and truly good" entity calling itself more frequently of late the "church" of scientology. The "CSI" degree of fidelity to mature, reasoned and reasonable participation in our federal legal system, and in our international postal system, is shown rather clearly by CSI's reaction to and treatment of the Armstrong/Abbott low key, simple effort to get California Scientology and Texas Scientology officials to "pick up their

mail," certified mail in the subject undertakings. Sending mail to the key CSI subject addressees had a serious purpose, sending certain current information regarding the addressees. The refused mail sent was plaintiff's court document required by Federal District Court of Nevada LR 10-6, Certificate as to Interested Parties.

8. The annexed exhibit photocopies (the originals are held to be available for filing with the court) of certified mail show the following zero-acceptance of mail results —

— Arm Process Exhibit 6, a certified letter "Return Receipt Requested" to the defendant Church of Scientology International at its 6321 Hollywood Boulevard, Los Angeles 90028 address bears, puzzlingly, both a "Return 2.10" stamped imprint and a "Return Mar 15" stamped imprint. Not puzzling, however, are the "UNCLAIMED" and "Returned to Sender" stamps on the unopened envelope returned to the Abbott law office post office box on Tuesday, March 3, 1998.

— Arm Process Exhibit 7, a certified letter "Return Receipt Requested" to the defendant Church of Scientology of Texas at its 2200 Guadalupe, Austin 78705 address bearing Feb 6 "1st notice" and "Return March 13" stamped imprints on the unopened envelope returned to the Abbott law office post office box on Saturday, March 7, 1998.

— Arm Process Exhibit 8, a certified letter, "Return Receipt Requested" to defendant Cathy Norman at the same Austin, Texas 2200 Guadalupe address bears both a "Return 2-28" and a "RETURN Mar 21" set of stamped imprints, this document returned to the Abbott law office post office box on Saturday, March 7, 1998.

— NOT yet returned : a total of three (3) certified mail "Return Receipt Requested" letters addressed to defendants David

Miscavige, to the Religious Technology Center, and to the Sea Organization, each deposited at Minden, Nevada for mailing on the same date as the mailing of a certified letter to the Church of Scientology International, a letter already returned unopened on March 3.

9. On the foregoing, the December through February frustrated and failed efforts of plaintiff Armstrong through the Abbott law office to effect service of process upon the named California and Texas defendants demonstrate conclusively, we suggest, that plaintiff must resort to the substituted service approach permitted by the laws of both California and Texas.

Here, plaintiff did not set out to find out what it did discover, viz.: that Scientology offices in America's two most populous states, California (housing and officing CSI's top international offices and officers) and Texas (a "hub" state, claiming thousands of CSI adherents) would systematically dodge, duck, frustrate by any means, and would hide from or would bar access to process servers (as officers in charge at each of the process servers destination were fully aware) armed with Summons and Complaints issuing out of a United States District Court. However, as the above recitations and annexed exhibits show, the systematic barring of access by Scientology, and indeed the planned refusal of Scientology's key offices and key officers to even "pick up their mail" demonstrate the need for plaintiff to turn to the relief available in such circumstances through substituted service upon the corporate defendants (CSI, Religious Technology Center,

Sea Organization, and Church of Scientology of Texas) as well as upon defendant corporate officer individuals (Miscavige and Norman) in their respective venues.

WHEREFORE this attorney-applicant requests that the annexed proposed order be granted, with such order declaring that service of the Summons and Complaint in these proceedings upon each of the hereinafter named defendants is authorized to be made by substituted service through Secretary of State of California in the case of defendants David Miscavige, Church of Scientology International, the Religious Technology Center, and the Sea Organization, and through the Secretary of State of Texas in the case of defendants Cathy Norman and the Church of Scientology of Texas, by delivering by hand to the Secretary of State, or to any person employed in the Secretary of State's office in the capacity of assistant or deputy, one copy of the process for each defendant to be served, together with a copy of the order authorizing such service.

No previous application for this relief has been made.

Dated this 9th day of March, 1998.

GERALD ARMSTRONG, Plaintiff

By George W. Abbott
George W. Abbott, Esq.
Attorney for plaintiff